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Attorneys for Defendants
Jeff Moss and DEF CON Communications, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CHRISTOPHER J. HADNAGY, an individual;
and SOCIAL-ENGINEER, LLC, a
Pennsylvania limited liability company,

Plaintiffs,

v.

JEFF MOSS, an individual; DEF CON
COMMUNICATIONS, INC., a Washington
corporation; and DOES 1-10; and ROE
ENTITIES 1-10, inclusive,

Defendants.

Case No.: 2:23-cv-01345-CDS-BNW

**DEFENDANTS' STATEMENT
REGARDING REMOVAL**

Defendants Jeff Moss and DEF CON Communications, Inc. ("DEF CON") (collectively, "Defendants"), by and through their counsel of record, Holland & Hart LLP and Perkins Coie LLP, file this statement regarding removal pursuant to the Court's August 31, 2023 Minute Order.

1 See ECF No. 5. Defendants also refer this Court to the Notice of Removal and the exhibits
2 attached thereto. See ECF No. 1.

3 **1. THE DATE ON WHICH YOU WERE SERVED WITH A COPY OF THE COMPLAINT.**

4 Plaintiff served Defendants with a copy of the Complaint on August 10, 2023. See
5 **Exhibit A** (Affidavits of Service for Mr. Moss and DEF CON); see also ECF No. 1, at 4, ¶ 10.

6 **2. THE DATE ON WHICH YOU WERE SERVED WITH A COPY OF THE SUMMONS.**

7 Plaintiff served Defendants with a copy of the Summons on August 10, 2023. See
8 Exhibit A; see also ECF No. 1, at 4, ¶ 10.

9 **3. IN REMOVALS BASED ON DIVERSITY JURISDICTION, THE NAMES OF ANY SERVED**
10 **DEFENDANTS WHO ARE CITIZENS OF NEVADA, THE CITIZENSHIP OF THE OTHER**
11 **PARTIES, AND A SUMMARY OF DEFENDANT’S EVIDENCE OF THE AMOUNT IN**
12 **CONTROVERSY.**

13 Diversity jurisdiction is met under 28 U.S.C. § 1332. Plaintiff Christopher Hadnagy is a
14 citizen of the State of Florida. See ECF No. 1-1, at 4 (Complaint, ¶ 14). Plaintiff Social-Engineer,
15 LLC is a Pennsylvania limited liability company, having its principal place of business in the State
16 of Pennsylvania. See *id.* (Complaint, ¶ 15). A limited liability company is deemed a citizen of
17 every state of which its members are citizens. See *Johnson v. Columbia Properties Anchorage,*
18 *LP*, 437 F.3d 894, 899 (9th Cir. 2006). Information regarding the citizenship of Plaintiff Social-
19 Engineer, LLC’s member(s) is not publicly available. Defendants accordingly state that on
20 information and belief, none of Plaintiff Social-Engineer, LLC’s member(s) is a citizen of
21 Washington. See *Carolina Cas. Ins. Co. v. Team Equip., Inc.*, 741 F.3d 1082, 1087 (9th Cir. 2014)
22 (concluding it was appropriate to simply allege “on the basis of information and belief” that an
23 LLC’s members are “diverse to” a defendant when the LLC’s membership is not publicly
24 available).

25 Defendant Jeff Moss is a citizen of the State of Washington. See ECF No. 1-1, at 4
26 (Complaint, ¶ 16). Defendant DEF CON Communications, Inc. is a corporation organized under
27 the laws of the State of Washington, having its principal place of business in the State of
28

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Washington.¹ A corporation's citizenship includes the state of its principal place of business and the state of incorporation. *See Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010). Moreover, the citizenship of fictitious defendants is disregarded for purposes of establishing removal jurisdiction under 28 U.S.C. § 1332. *See* 28 U.S.C. § 1441(b)(1). Accordingly, Defendants are citizens of Washington.

The amount in controversy exceeds the jurisdictional threshold of \$75,000.00 based on the allegations in the Complaint. Plaintiffs here seek to recover "actual, consequential, and incidental damages against Defendants in excess of \$15,000 for each of the above-mentioned causes of action." *See* ECF No. 1-1, at 29 (Complaint, Prayer for Relief). This amount is exclusive of the punitive damages, interest, attorney's fees, and costs that are also sought by Plaintiffs. *See id.* Because Plaintiffs assert a total of seven causes of action and seek "in excess of \$15,000 for each," the Complaint's minimum damages demand totals \$105,000. *See id.* Thus, the amount in controversy exceeds the \$75,000 threshold established by 28 U.S.C. § 1332(a).

4. IF YOUR NOTICE OF REMOVAL WAS FILED MORE THAN 30 DAYS AFTER YOU FIRST RECEIVED A COPY OF THE SUMMONS AND COMPLAINT, THE REASON REMOVAL HAS TAKEN PLACE AT THIS TIME AND THE DATE YOU FIRST RECEIVED A PAPER IDENTIFYING THE BASIS FOR REMOVAL.

Not applicable. On August 10, 2023, Plaintiffs served Defendants with their Summons and Complaint. *See* ECF No. 1, at 4; *see also* Exhibit A. On August 29, 2023, Defendants filed the Notice of Removal, which is within thirty (30) days of service of the Summons and Complaint. *See* ECF No. 1.

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¹ While Plaintiff's Complaint correctly recognizes that DEF CON is organized under the laws of the State of Washington, Plaintiff incorrectly states that DEF CON is a limited liability company, even though the caption of Plaintiff's Complaint lists DEF CON as a "Washington corporation." *Compare* ECF No. 1-1, at 2, *with* ECF No. 1-1, at 4, ¶ 17. DEF CON is a corporation organized under the laws of the State of Washington. *See Exhibit B* (Washington Secretary of State Business Information for DEF CON Communications, Inc.).

1 **5. IN ACTIONS REMOVED ON THE BASIS OF THE COURT’S JURISDICTION IN WHICH THE**
2 **STATE COURT ACTION WAS COMMENCED MORE THAN ONE YEAR BEFORE THE**
3 **DATE OF REMOVAL, THE REASONS THIS ACTION SHOULD NOT SUMMARILY BE**
4 **REMANDED TO THE STATE COURT.**

5 Not applicable. On August 9, 2023, Plaintiffs filed their Complaint in state court. *See* ECF
6 No 1-1, at 2. On August 10, 2023, Plaintiffs served Defendants with the Summons and Complaint.
7 *See* ECF No. 1, at 4; *see also* Exhibit A. On August 29, 2023, Defendants filed their Notice of
8 Removal. *See* ECF No. 1. Thus, less than one year passed before the date of removal.

9 **6. THE NAME OF ANY DEFENDANT KNOWN TO HAVE BEEN SERVED BEFORE YOU FILED**
10 **THE NOTICE OF REMOVAL WHO DID NOT FORMALLY JOIN IN THE NOTICE OF**
11 **REMOVAL AND THE REASONS THEY DID NOT.**

12 Defendants are not aware of any defendant who has been served before their filing of their
13 Notice of Removal on August 29, 2023.

14 DATED this 15th day of September 2023.

15 **HOLLAND & HART LLP**

16 */s/ Robert J. Cassity*

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INDEX OF EXHIBITS

Exhibit	Description	Page Numbers
A	Affidavits of Service for Mr. Moss and DEF CON	001-003
B	Washington Secretary of State Business Information for DEF CON	004-005

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September, 2023, a true and correct copy of the foregoing **DEFENDANTS' STATEMENT REGARDING REMOVAL** was served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the United States District Court, District of Nevada's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

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/s/ Kristina R. Cole
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